

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY J. ROBINSON, JR.,

Defendant.

Case No. 14-CR-150

Milwaukee, Wisconsin

April 30, 2015

TRANSCRIPT OF SENTENCING

BEFORE THE **HONORABLE RUDOLPH T. RANDA,**
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

For the Plaintiff:

United States Attorney
By: **Mr. William J. Lipscomb**
Assistant U.S. Attorney
530, U.S. Courthouse
517 E. Wisconsin Ave.
Milwaukee, WI 53202

For the Defendant:

Federal Defender Services
By: **Mr. Craig W. Albee**
Attorney at Law
517 E. Wisconsin Avenue
Milwaukee, WI, 53202

REPORTED BY:

HEIDI J. TRAPP
Federal Official Court Reporter
310, U.S. Courthouse
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
(414) 297-3074

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TRANSCRIPT OF PROCEEDINGS

THE CLERK: Case Number 14-CR-150, United States of America vs. Billy Robinson. Called for a sentencing hearing. May I have the appearances, please. First for the Government.

MR. LIPSCOMB: Good morning, Your Honor. Assistant United States Attorney William J. Lipscomb on behalf of the United States.

THE COURT: Good morning.

MR. DRAGOLOVICH: Daniel Dragolovich for U.S. Probation. Good morning.

THE COURT: Good morning.

MR. ALBEE: Good morning, Your Honor. Mr. Robinson appears in person and with Craig Albee.

THE COURT: Good morning. The case is here for sentencing. The Court has read the presentence report. The Court has received a letter yesterday, and from defense also. The Court has read that. It's read all the other information related to this hearing, and the Court is prepared to proceed. Before the Court does, it must inquire of you, Mr. Robinson, as to whether or not you've had the same opportunity. So I ask you, have you gone over this presentence report with your attorney, Mr. Albee?

THE DEFENDANT: Yes, sir.

THE COURT: Do you or Mr. Albee have any objections to any of the factual statements in the report?

1 MR. ALBEE: Judge, we have nothing beyond what we
2 included in our letter to the Probation Office.

3 THE COURT: All right. Does the Government have any
4 objections to any of the factual statements in the report?

5 MR. LIPSCOMB: No, Judge.

6 THE COURT: Okay. Well, then the Court will take the
7 range of sentence established by the guidelines and integrate
8 that into the factors under 18 United States Code Section 3553,
9 which directs the Court to look at the same things that the
10 guidelines look at, and then render a disposition not more than
11 necessary to achieve what are the goals in both. The Court will
12 listen to the Government's recommendation first, then Mr. Albee.
13 And then, Mr. Robinson, you get the last word relative to your
14 right of allocution. You get to talk last. Is the Government
15 going to make a recommendation here?

16 MR. LIPSCOMB: Yes, Judge. Going to sort of back up,
17 though. You know, the Defendant did submit two letters,
18 ultimately. The first letter to the Probation Office dated
19 April 17th, which is an objection to the facts in the
20 presentence report, which is dealt with in the addendum filed on
21 April 23rd of 2015. And that deals with the firearm
22 enhancement. The Defendant objects to that -- application of
23 that enhancement. And if the Court were to accept that
24 objection, the guideline range would be reduced to 77 to
25 96 months, which is significant. And the Government actually in

1 that did not oppose that objection. I think it's appropriate.
2 We're not really able to prove the firearm involvement with
3 Mr. Robinson, as we could with the other Defendants.

4 THE COURT: All right. Well, I suppose the Court
5 should have commented on the fact that because the Government
6 doesn't think it can prove that, that the Court is not going to
7 tag -- or credit Mr. Robinson with that. So we will proceed on
8 that range that's established, 77 to 96 months, I believe.

9 MR. LIPSCOMB: Thank you, Judge. Okay. So then the
10 Government's recommendation, Judge, is that the Court -- it's
11 really kind of reflected in the Defendant's letter. What I'm
12 concerned about in this case in recommending a sentence not more
13 than 5 years is that there really be some parity with the other
14 Defendants in the case. And I know that Mr. Robinson presents a
15 different profile, particularly given his extensive criminal
16 history. But the counterweight to that is his limited time
17 involved in this offense. And so I think about 60 months, not
18 more than that, is about where it would be appropriate to come
19 down with a sentence that was not greater than necessary to
20 achieve the purposes of sentencing.

21 In that regard, you know, I'm not diminishing the
22 seriousness of the offense that Mr. Robinson was involved in.
23 Though he was involved in it for a short period of time, he was
24 assisting Mr. Trivon Carter in a significant heroin trafficking
25 enterprise. And as the facts would show, going down to Chicago

1 to help him pick up heroin, and then also to make at least one
2 delivery that we have through a C.I. here in the Milwaukee area.
3 So, you know, if that were a one time deal for a person, you
4 know, that might not call for a sentence even of 60 months. But
5 Mr. Robinson's history is really terrible. And, you know, sort
6 of a pickle as to what the Court should do with him,
7 particularly now that he is -- what is he? 35 years of age, I
8 think? Right. 35 years of age. And you'd hope done with the
9 foolishness and the knuckle-headness, and the street association
10 of his past.

11 He's got kind of a classic street dealer criminal
12 history starting at the age of 14 with some thefts, and
13 possession of a stolen automobile, and possession of cocaine,
14 and battery, possession of T.H.C. Another possession charge out
15 of Chicago, moving on to more serious felony conduct in 2002.
16 Two Milwaukee County cases where we have manufacture or delivery
17 of cocaine. He gets significant prison time for those offenses,
18 but not too long after getting out has essentially a
19 distribution of heroin in Chicago in 2012. And then fast
20 forward to our offense here in 2014.

21 So he's not gotten the message yet. And the reaction
22 could be, well, have to ratchet this up even beyond what the
23 prior sentences were. That may or may not be right, but he's
24 also gotten older, too. And I think the difference in a 4 year
25 or 5 year sentence for a guy who's 35 is different than it would

1 be if he were 22 years old. Five years is a greater period of
2 time for a person who's 35 years old and has seen what prison
3 is.

4 So I think that's kind of in the range of what's
5 appropriate here. But I can't tell you -- and I had this
6 conversation with Mr. Albee -- from the public standpoint, how
7 much time is necessary to get Mr. Robinson to stop dealing dope.
8 I don't know what that is. We know that when he's incarcerated
9 he's not dealing drugs on the street. But we want him to stop.
10 We want him to do something productive. And I think that 4 to 5
11 year range is the minimum that's necessary to make that happen
12 and is, I think, sufficient.

13 THE COURT: All right. Mr. Albee?

14 MR. ALBEE: Judge, there's not much difference between
15 the recommendations of the parties here. Mr. Lipscomb has
16 suggested 4 to 5 year range. We're asking the Court to impose a
17 sentence 6 months below that range. And Mr. Lipscomb and I are
18 pretty well in agreement as to what the important considerations
19 are here, and what needs to be balanced. I do think a
20 3-and-a-half year sentence is sufficient but not greater than
21 necessary under all the circumstances when we look at some of
22 the finer points, some of the details here in both the role in
23 the offense, and some of the criminal history information.

24 In comparison to his co-Defendants, at least the ones
25 who are -- the people who are prosecuted, I guess there are

1 other people who probably were part of Mr. Carter's organization
2 that had different roles at different times that Mr. Carter
3 used. Mr. Robinson was involved for about 2 months, as opposed
4 to the 2-plus years that the others were involved. And for
5 those 2 months Mr. Robinson was a bit player here. He had no
6 leadership or supervisory role. He didn't make any decisions,
7 even about how things would take place. Mr. Carter really did
8 everything. Billy didn't have his own customers. He didn't --
9 Mr. Carter said he didn't help even bag any of the heroin. He
10 never had a gun. He was simply told, you know, what to do on
11 occasion by Mr. Carter. And even the circumstance under which
12 Mr. Robinson came to be prosecuted the sale of the half gram of
13 heroin to an informant -- in looking at the discovery, there was
14 an evidentiary hearing on this matter. Mr. Carter set up that
15 deal, and then had his brother actively doing some -- what the
16 Police describe as counter-surveillance, and then sent
17 Mr. Robinson to deliver the drugs. And I suspect Mr. Carter
18 thought that he was -- that potentially this was somebody
19 working for law enforcement, and so he sent Mr. Robinson.

20 Mr. Robinson got involved here. Mr. Carter was his
21 cousin. He started hanging out with him. Enjoyed living
22 vicariously -- Mr. Carter was doing well. Living a much higher
23 lifestyle than Billy could possibly afford. He made some very
24 bad choices in terms of hanging out with Mr. Carter, and of
25 helping him out on some occasions. It's obviously a serious

1 offense. It's a heroin offense. But Billy's role was much
2 smaller, and he was really a replaceable piece in this -- in
3 Carter's business. He would have found somebody else. It
4 doesn't diminish the wrongfulness of Billy's behavior, but he
5 just was not a leader of this enterprise.

6 His past criminal history? Obviously we all have to
7 be concerned, because he's had three prior convictions. Those
8 convictions also involve what are street level dealer kind of
9 amounts. .12 grams of cocaine. .27 grams of cocaine. None of
10 them involve guns, violence, threats to anybody. No leadership
11 activity. He's never been a major player. And so I think that
12 the balance here in terms of looking at his role in the offense,
13 and his criminal history, suggests a sentence along the lines
14 recommended by the parties. I do think 3-and-a-half years is
15 sufficient.

16 In terms of the personal characteristics, Your Honor,
17 about Mr. Robinson? He's a little bit of a mystery to me. He's
18 just a very likable individual. He's clearly -- he's good with
19 people. He's relaxed. He's easy going. In talking with family
20 members, people seem to enjoy his company. His kids love him.

21 But he hasn't done much. He does have plans for the
22 future, which I think is a reason to be optimistic. He has
23 plans to move with his fiancée to Alabama. I think it would be
24 good for him to get away with his associations that he has in
25 the Milwaukee area. He has goals in terms of obtaining some

1 vocational training and some treatment. When we look at the
2 PSR, it's surprising how little programming that Mr. Robinson
3 for his contacts with the criminal justice system has ever
4 received. That doesn't take the blame off his shoulders. It's
5 just -- it's surprising that he hasn't had vocational training
6 and other programs here.

7 He had some drug treatment in the prison, but there's
8 a recommendation for follow-up, and then no follow-up took
9 place. I do think his marijuana abuse has probably been a
10 significant factor in who he is and why his personal growth has
11 been somewhat stunted. And I think he would benefit from the
12 RDAP program.

13 So Judge, in terms of an appropriate sentence, the
14 parties are not far apart. I do think when we look at
15 sufficient but not greater than necessary, 3-and-a-half years
16 would fit the bill, given the fact that Billy was a bit player
17 in this enterprise, and that he's never been a person who's been
18 engaged in violence or guns in his life. So I would ask the
19 Court to impose 3-and-a-half years. And also a recommendation
20 that that institution be a place as close as possible to the
21 Eastern District of Wisconsin.

22 THE COURT: Okay. Mr. Robinson, you have a right to
23 speak. Anything that you want to say before the Court passes
24 sentence?

25 THE DEFENDANT: I've got this letter I would like to

1 address the Court with, saying that I accept full
2 responsibilities for my actions. I made a lot of bad choices in
3 my life, and I have to work on becoming a better man and father.
4 Changes will be made in my life, and I plan to seek help. I
5 have children that look up to me, and thinks that I'm a great
6 Dad. I want to be a good role model for my kids, and I know I'm
7 not the first, but I want the best for my children.

8 My goals are to be more responsible and get a job.
9 Surround myself around positive people and do positive things.
10 I have a family that loves me and cares about me a lot, and I
11 don't want to lose them. And life is what you make out of it,
12 so I have to make the right choices in life to achieve my goals.
13 And that's pretty much what I got here, sir.

14 THE COURT: All right. Well, the Court has to, as
15 indicated, look at the nature and circumstances of the offense,
16 and then the history and characteristics of the Defendant, and
17 then to render a disposition not more than necessary to achieve
18 what are the goals of both the guidelines and the Statute. And
19 that is to reflect the seriousness of the offense, promote
20 respect for the law, create a just punishment, provide adequate
21 deterrence, and protect the public from further crimes.

22 The thing that surfaces here is that last goal,
23 protect the public from further crimes. And the Court will
24 discuss that in more detail as I get to the second standard, the
25 history and characteristics of the Defendant. But we take up

1 the first one first, the nature and circumstances of the
2 offense. This is a distribution. Travel to facilitate the
3 distribution of heroin. Two counts. The Court could go on for
4 hours. And personal experiences, people that I know. And this
5 is, of course, so prevalent that it impacts all levels and
6 strata of society. And it's heroin, which is the worst drug
7 that you can probably put out onto the street. People could
8 argue about methamphetamines and other things that rot people's
9 teeth and are just as addictive. But the point is that heroin
10 is the drug of choice for people who graduated to the ultimate
11 high. And it is creating destruction.

12 And Mr. Robinson, your community, 28th Street, those
13 environments. I mean, 2700, 28th Street where your Mom used to
14 live -- I believe that's where you were living when this offense
15 occurred. And, of course, Martin was living on the 3100 block I
16 think near Burleigh on 28th Street. I used to date a girl that
17 lived on 24th Street and Locust when I was in college. I'd go
18 into that neighborhood. And she lived in an upper duplex. And
19 I could do that. And it was becoming a mixed neighborhood at
20 the time, and I could do that without any fear of getting
21 jacked, or shot, or anything. And now, years later, that whole
22 neighborhood has changed. And this activity is probably the
23 reason for it. Drugs everywhere. You know, Mr. Lipscomb has
24 just indicated, what are we going to do to keep this guy from
25 this street level dealing that he's been doing since age 14?

1 And why do I say that? Well, because at age 14 you started --
2 according to this presentence report -- using marijuana. And
3 people say well, that's no big deal. But when you use
4 marijuana, it ain't free. You've got to buy it from someone.
5 So you're facilitating a deal. And that just perpetuates the
6 whole thing. And this presentence report -- although there is a
7 disagreement as to the amount spent -- presentence report says
8 50 to \$60 per day. But you said 50 to \$60 a week.

9 The point is that's been a constant criminal
10 involvement since age 14. And I'm not talking about -- and
11 that's just the marijuana use. And that, of course, leads to
12 involvement in other things like retail thefts. And you were
13 put out at Ethan Allen. Held over at Ethan Allen. Got into
14 some trouble there. Incarcerated. Operating stolen auto -- or
15 involved in a stolen auto. And that goes up.

16 And finally -- and that's another thing. Chicago. I
17 looked at these dispositions that were rendered in Chicago.
18 That must be a revolving door criminal justice system down
19 there. I mean, probation back in '12 for possession of
20 controlled substance with intent to deliver heroin? Two years?
21 I think that's what it was. Isn't that right, Mr. Dragolovich?

22 MR. DRAGOLOVICH: Yes, I believe so.

23 THE COURT: 2012, age 32, with this record he gets two
24 years probation for dealing heroin. That to me is just beyond
25 belief. Now, I'm not going to punish you because of what they

1 didn't do down in Chicago. But the point is, this has hurt you,
2 because you apparently have this idea that you don't have to
3 work. You can continue doing what you're doing. And now you're
4 35 years old. 21 years later, still doing the marijuana.
5 Haven't had a job in your life. And the only positive I can see
6 here is that you've got a supportive family. And that your
7 siblings aren't involved in any antisocial behavior. At least
8 what I can tell from the presentence report.

9 And Mr. Albee, your attorney, is one of the best. I
10 mean, he's made the arguments that, you know, you're a bit
11 player. Hanging out with Carter, your cousin. And that's a bad
12 deal. But Carter knew who to go to when he dropped DuVergey.
13 When she was using up too much of the heroin that she was
14 supposed to be selling and transporting. He went right to his
15 cousin. Because he knew, based upon what you've been doing your
16 whole life, Mr. Robinson, that he could count on you.

17 And that -- that's why the Court emphasizes the last
18 one, protection of the public. You told me you want to take
19 full responsibility. You should. Everybody is responsible for
20 their own behavior. All of this stuff, this was -- this offense
21 was committed while he was on supervision, right? For that
22 offense -- another possession charge?

23 MR. DRAGOLOVICH: Yes.

24 THE COURT: That's the Chicago thing?

25 MR. DRAGOLOVICH: Yes. And the Milwaukee one as well.

1 THE COURT: And the Milwaukee one as well. So
2 constant contact, escape from prison, fugitive for two years. I
3 mean, I haven't seen a record like this in a long time, where
4 it's just a total disregard. I don't care how nice you are.
5 How much your family loves you. I mean, my family loves me,
6 too. But when I stepped out of line, they dealt with me. They
7 didn't love me so much. In fact, it's because they loved me
8 that they dealt with me.

9 And I'll bet you -- and I was here in '67. I was
10 waiting to go to Vietnam in '68 -- '67. And I was going to go
11 to Vietnam, and I had a short leave here in Milwaukee. You know
12 what happened in '67? That was -- you were born 12 years later,
13 Mr. Robinson. '67 we had huge riots in this city. Not unlike
14 what happened in Baltimore this week. Had to call out the
15 National Guard. Mayor Maier had to put a curfew on the city.
16 And you know what? I couldn't even get to the airport to go to
17 a combat zone. And if we had something like this in this city
18 today? With this pathology that we've got set in these
19 neighborhoods? The same thing is going to happen here. If I
20 was the Mayor, if I was the Chief of Police, I'd be watching for
21 that. Because this is a -- this bespeaks total lack of
22 discipline, self -- well, responsibility. Self responsibility.
23 Self direction. It's lacking. And any excuse -- and, you know,
24 you didn't even get your H.S.E.D. when you were in prison the
25 last time. When you got those -- got tagged when you were 23

1 back in '03. That's the only time you really spent, those
2 6-and-a-half years. And I'm being asked to give less time now?
3 That's not going to happen. Because protection of the public is
4 key here, based upon my analysis.

5 Your attitude is negative. Personality is negative,
6 based upon your behavior. The only positive, as I indicated, is
7 your family. You've got 13 other arrests besides all of these
8 other crimes. You've got, what? Five kids now by four
9 different women. You're going to go to Alabama with your fiancé
10 because you say you want to take your kids there, lead a
11 prosocial lifestyle, and be a role model? But then you've got,
12 what? A kid in Chicago, and two in Milwaukee here, right?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: What about them? Are they going to go to
15 Alabama with you? Whose Momma is going to raise those people by
16 themselves? Now I'm putting my finger on the real problem here.
17 And I'm not going to go deeply into that, because I can speak
18 for a long time on that, also. But I can't give you the same
19 thing that DuVergey got. She was -- she had a criminal history
20 category of one. And she was -- she was someone who had
21 sympathy because she was, indeed, captured by, first, cocaine.
22 And then she married a guy who was using heroin, he introduced
23 her to it, and then he died, and now she's hooked. And heroin
24 users, they will do almost anything to get heroin. Almost
25 anything. They've got a lifelong desire for it. And so they

1 have to get up every day and say oh, God, I really could use a
2 fix. But if they don't have the willpower to say -- to think
3 and see that they're going to go right back to the depths that
4 they came from -- and that's a burden. That's a lifelong
5 burden, that just one shot of heroin can put on somebody.

6 So I'm going to give you 3-and-a-half years, but on
7 both counts, consecutive. Because you deserve a little more
8 time than DuVergey. And that addresses the protection of the
9 public. It provides adequate deterrence. And it is a just
10 punishment. So it meets those three goals. And it also
11 reflects the seriousness of the offense. We've got three goals
12 here that should be observed and addressed in this sentencing.
13 So the Court is doing that.

14 I'm going to place you on supervised release for a
15 period of 3 years on both. That will be concurrent. Set the
16 usual conditions of supervised release, which are necessary.
17 Have to report to the Probation Office in the District in which
18 you're released within 72 hours. Can't commit any State,
19 Federal, or local crimes. You can't possess any controlled
20 substances illegally. Have to engage in 6 urinalyses tests per
21 month. Residential or outpatient treatment for drug or alcohol
22 abuse. The Court will recommend the drug treatment program.
23 Obviously the discussion here is that -- and since the weapons
24 charge -- he should be eligible for that, is that correct?

25 MR. DRAGOLOVICH: Yes.

1 THE COURT: Yeah. You get involved in this program --
2 and you indicated that you want to take advantage of those
3 programs, Mr. Robinson. You get involved in that program, and
4 pass it, that will shorten your sentence when you're in the
5 prison. Don't blow it off, like you did the H.S.E.D. when you
6 were sentenced back in 2003. I don't know why you didn't finish
7 it. I'm not going to be critical of that, but take advantage of
8 the programs.

9 All right. We've got -- the Court has looked at the
10 Defendant's financials. I can't -- filed one income tax
11 return -- although there's a record of three. But then he says
12 that someone may have been using his identity and information,
13 which the Court sees as absolutely possible, having sentenced a
14 variety of people for doing that very same thing. Filing income
15 tax returns on behalf of people that -- whose identity has been
16 stolen.

17 The Court has received the addendum to the presentence
18 report. We've been dealing with Judge Posner's requirements
19 that -- I've stated the mandatory conditions which are obvious.
20 The reasons for them are obvious. The firearms -- no firearms
21 or dangerous weapons. Drug treatment program. Reporting. No
22 crimes. The Court has to set conditions now that -- because of
23 the Defendant's absconding, can't leave the District without
24 permission of the Probation Officer or Court. Shall answer
25 truthfully all inquiries by the Probation Officer, subject to

1 the First Amendment right against self incrimination, and follow
2 the instructions of the Probation Officer. Shall use his best
3 efforts to support his dependents. Cooperate with child support
4 enforcement. Although there haven't been any orders, according
5 to the presentence report. He shall use his best efforts to
6 find and hold lawful employment unless excused by the Probation
7 Officer for schooling, training, or other acceptable conditions.
8 And those include child care, elder care, disability, age or
9 serious health condition and others related thereto. Consistent
10 with U.S. vs. Siegel and the need to reduce recidivism.

11 The Defendant shall notify the Probation Officer at
12 least 10 days prior to any change in his residence or
13 employment. That does not mean changes in the condition of an
14 employment. Just changes in employers. And when such
15 notification is not possible, the Probation Officer shall be
16 notified within 72 hours of the change.

17 The Court will also, because of the Defendant's
18 history, not knowingly go to places or enter buildings where
19 controlled substances are unlawfully sold, used, distributed, or
20 administered. And he shall use his best efforts not to
21 associate with any persons known by him to be engaged or
22 planning to be engaged in criminal activity. And shall not
23 associate with any person known by him to be a felon, absent
24 permission to do so by the Probation Officer. And associate as
25 used here means reside, socialize, meet, communicate, or

1 otherwise interact with such person. The Defendant shall permit
2 a Probation Officer to visit him at reasonable times at home or
3 elsewhere, and shall permit confiscation of any contraband
4 observed in plain view by the Probation Officer.

5 There will be a notification of any arrest within
6 72 hours or questioning by a law enforcement Officer. In
7 addition, the Defendant shall not enter any agreement to act as
8 an informer or a special agent of a law enforcement agency
9 without the permission of the Court. And those are the
10 conditions of probation.

11 The Court is waiving the fine as indicated in this
12 case. And the Court will impose the \$100 mandatory special
13 assessment, which is payable in Room 362 of the Clerk of Court's
14 Office. The Court will accept the Defendant's request for a
15 facility as close to home as possible. And so the Court is
16 going to put that in this judgment, that you be placed at a
17 facility as close to home as possible, Mr. Robinson, so that
18 your family will have an opportunity to visit.

19 The Court having rendered its disposition, is there
20 any question as to the Court's disposition from the Government?

21 MR. LIPSCOMB: No, Judge. Thank you.

22 THE COURT: Any from the defense, Mr. Albee?

23 MR. ALBEE: No, Judge.

24 THE COURT: Mr. Robinson, I have to -- you can appeal
25 this case. You've got 14 days to appeal it. If you can't

1 afford an appeal, a notice will be filed on your behalf by the
2 Clerk of Courts. And Mr. Albee, you will file a Notice of
3 Appeal on Mr. Robinson's behalf if he decides to do that?

4 MR. ALBEE: Yes, Your Honor.

5 THE COURT: Anything else to come before the Court?

6 MR. LIPSCOMB: I don't believe so, Judge.

7 MR. ALBEE: No, Judge.

8 THE COURT: The Court will stand in recess until the
9 next case.

10 * * *

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN
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4 I, HEIDI J. TRAPP, Official Court Reporter for the
5 United States District Court, Eastern District of Wisconsin, do
6 hereby certify that I reported the foregoing Transcript of
7 Proceedings; that the same is true and correct as reflected by
8 my original machine shorthand notes taken at said time and place
9 before the Hon. Rudolph T. Randa.
10

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12

Official Court Reporter
United States District Court
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14 Dated at Milwaukee, Wisconsin,
15 this 18th day of June, 2015.
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